

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

&

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WP(C).No. 34140 of 2007(L)

PETITIONER:

KISHORE, AGED 24, S/O.PETER,
LAYOLA COLONY,MUNDEMPILLY, THAIKKATTUKARA
ALUVA WEST.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS:

1. DEPUTY SUPERINTENDENT OF POLICE
ALUVA.
2. SUB INSPECTOR OF POLICE
ALUVA.
3. JOHN MATHEW,
KAINATTUMPILLY HOUSE,KADAVANTHARA.
4. HUSSAIN, CHALUNKAL HOUSE
PALLILAMKARA, ALUVA.

BY ADV. SRI.M.M.SAIDU MUHAMMED
GOVT. PLEADER SRI.P.A.SALIM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXTS.

EXT.P1 - TRUE COPY OF STATUS QUO ORDER DATED 24.8.2007.

EXT.P2 - TRUE COPY OF PETITION DATED 8.11.2007 SUBMITTED BEFORE THE 1ST RESPONDENT.

EXT.P3 - TRUE COPY OF PETITION DATED 17.11.2007 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

K.BALAKRISHNAN NAIR &

A.K.BASHEER, JJ.

W.P.(C) NO.34140 OF 2007-L

Dated 6th December, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner is a student of computer course. He is living with his parents and brother. His elder brother Mr.Praveen filed O.S.No.214/2007 before the Munsiff's Court, Aluva, claiming permanent prohibitory injunction, restraining the 3rd respondent herein and his men from interfering with the peaceful possession and enjoyment of a property having an extent of 7.572 cents in Re-survey No.146/6 of Aluva West Village without recourse to the due process of law. Though, initially there was an injunction in that suit, the I.A was later dismissed. So, his brother filed C.M.A.No.47/2007 before the Additional District Court, N.Paravur and obtained an order of status quo. Ext.P1 is the copy of that order. The petitioner submits, the 3rd respondent is a very influential person. He came to the property on 8.11.2007 and in violation of the status quo order, measured the property and attempted to cut and remove valuable trees

standing therein. So, on the very same day the petitioner filed Ext.P2 petition before the Deputy Superintendent of Police, the 1st respondent herein, complaining against the actions of the 3rd respondent. Later, the 3rd respondent came to the property on 17.11.2007 along with the 4th respondent, who is stated to be the purchaser of the property. The petitioner alleges, they threatened him. So, he filed Ext.P3 representation before the 1st respondent. Thereupon, the 3rd respondent was summoned by the police and he gave an undertaking that he will respect the status quo order of the court. The petitioner submits, the 3rd respondent and his supporters are frequently visiting the plot and threatening him and his family members. Therefore, this writ petition is filed, seeking protection to the life of the petitioner and his family members against the high-handed action of the 3rd respondent and his supporters.

2. A counter affidavit has been filed by respondents 3 and 4. The 3rd respondent in the said counter affidavit has submitted that he purchased 7.5 cents of land mentioned in the writ petition from the petitioner's father. Now he has sold it to the 4th respondent on 27.10.2007. The members of the petitioner's family have filed repeated civil suits before the courts concerned, claiming right of way over the property. All those suits were dismissed. In one of the cases filed by the petitioner's father, a forged

document was produced. On the basis of the complaint filed by the 3rd respondent, a crime was registered against his father and now he stands charge-sheeted by the police under Sections 120B, 464, 465, 468 and 420 read with Section 34 of I.P.C. , and the case C.C.No.341/1999 is pending before the Judicial First Class Magistrate's Court-I, Aluva. The present suit is filed by the petitioner's brother, alleging that there is a building in the 7.5 cents of land and the 3rd respondent has given the same on lease to him. Now, he is sought to be forcefully evicted from the said building. Making these allegations he filed O.S.No.214/2007, seeking injunction against forcible eviction. Upon hearing the 3rd respondent, the interim injunction was vacated and thereafter, the plaintiff moved the appellate court and obtained an ex parte interim order of status quo. Thus, the 3rd respondent submits that the entire allegations made in the writ petition are false and frivolous. The petitioner has filed a reply affidavit, reiterating his contentions.

3. We heard the learned counsel on both sides, including the learned Government Pleader. He submitted that since the dispute was a civil dispute, the police did not interfere in it. Going by the facts of the case, we feel that this is not a fit case where we should exercise our jurisdiction under Article 226 of the Constitution of India and ask the police to render

protection to the petitioner. The dispute between the parties relates to the rights over a property, which has to be settled by the competent civil court. If its orders are disobeyed, the court concerned can prosecute the offender and can also address the police to extend protection to enforce the orders of the court. Having regard to the nature of the dispute, the police cannot be asked to interfere in it. This order will not affect the powers of the police to investigate any cognizable offence reported.

In the result, the writ petition fails and it is dismissed with costs.

K.BALAKRISHNAN NAIR, JUDGE.

A.K.BASHEER, JUDGE.

Nm/